

ARTICLE 28

MIXED USE ZONING CATEGORIES

28-1 INTENT - The intent of this Article is to permit the development of zoning categories that promote the proper locations and regulation of development, which inherently permits the mixing of residential and non-residential uses. Such mixing of uses in appropriate locations and subject to appropriate restrictions can create a combination of functions compatible with abutting residential neighborhoods. This Article is intended to provide neighborhood-based employment opportunities; provide support services that enhance livability of neighborhoods; enhance the use of public transit and alternative modes of transportation; revitalize established neighborhood commercial centers; and promote quality infill and redevelopment potential in accordance with the adopted Comprehensive Plan.

28-2 CREATION OF ZONES - This Article hereby creates zoning categories Mixed-Use 1 (MU-1), Mixed-Use 2 (MU-2) and Mixed-Use 3 (MU-3), as specifically regulated herein below.

28-3 MIXED-USE 1: "NEIGHBORHOOD NODE ZONE" (MU-1) - Is hereby created and regulated as follows:

28-3(a) Location Criteria - MU-1 shall only be permitted on parcels which meet all of the following criteria:

- (1) The parcel must contain a combined total frontage of at least 100 feet of the intersection of two streets, one of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
- (2) The parcel must contain at least 5,000 square feet and may not exceed a maximum of 0.5 acres.
- (3) The parcel must be designated in a Medium, High, Very High Density Residential or Commercial land use category in the Comprehensive Plan or currently zoned for commercial use.

28-3(b) Principal Permitted Uses - The following shall be principal permitted uses in the MU-1 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and

B-1 zones, except as specifically prohibited herein below.

28-3(c) Accessory Uses - The following shall be considered accessory uses in the MU-1 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

28-3(d) Conditional Uses - The following shall be conditional uses in the MU-1 zone:

1. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

28-3(e) Prohibited Uses - The following uses shall be prohibited in the MU-1 zone:

1. The following principal uses in the B-1 zone: automobile service stations; parking lots and structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
2. The following accessory uses in the B-1 zone: drive-through facilities; the rental of trucks (single rear axle - 28' maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.
3. All B-1 conditional uses.
4. All uses listed as prohibited in the B-1 zone.

28-3(f) Lot, Yard and Height Requirements - shall be as follows:

- (1) Floor Area Ratio - Maximum 1.0.
- (2) Maximum Building Height - 35 feet.
- (3) Front Yard - No limitation for first or

second story; any third floor shall be set back at least fifteen (15) feet; also see Section 28-3(h)(5) below.

- (4) Each Side Yard - For 1- and 2-story structures, 10 feet; for 3-story structures, 20 feet.
- (5) Rear Yard - 10 feet or 30% of lot depth, whichever is greater.
- (6) Open Space - 10 percent.
- (7) Lot Coverage - No limitation.

28-3(g) Parking Requirements - Parking shall be required at the rate of 0.5 space per dwelling unit for residential uses and one (1) space per 400 square feet for non-residential uses; except for restaurants, which shall provide the greater of one (1) space per 200 square feet or one (1) space per every four (4) indoor seats. Parking provided shall not exceed the minimum required number of spaces, plus 50% of the minimum.

28-3(h) Special Provisions:

- (1) No less than 15%, nor more than 85%, of the floor area of any structure shall be required to be residential uses.
- (2) Only one principal structure shall be permitted per MU-1 site.
- (3) All residential uses shall be required to be in the same structure as non-residential uses.
- (4) When MU-1 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.
- (5) Within the Infill & Redevelopment Area, at least 60% of the front building wall shall be required to be built at the 0-foot setback line. When the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the 0-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the 0-foot setback; and for buildings facing on two streets, only the longest front building face shall be subject to this requirement.
- (6) Signage shall be as permitted and restricted under Article 17-7(e) for a P-1 zone.

28-4 MIXED-USE 2: "NEIGHBORHOOD CORRIDOR ZONE" (MU-2) - Is hereby created and regulated as follows:

28-4(a) Location Criteria - MU-2 shall only be permitted on parcels that meet all of the following criteria:

- (1) The parcel must be located within the Urban Service Boundary and have at least 160 feet of frontage on one of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street/Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man o' War Boulevard; Citation Boulevard or North Limestone Street.
- (2) The parcel must contain at least 0.5 acres and may not exceed a maximum area of four (4) acres.
- (3) The parcel must be designated in a Medium, High or Very High Density Residential or Commercial land use category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial/Residential Mixed Use, Industrial Mixed Use or Retail Trade/High Density land use category, the parcel does not have to meet the street frontage criteria listed in number 1 above.

28-4(b) Principal Permitted Uses - The following shall be principal permitted uses in the MU-2 zone:

1. Dwelling Units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited herein below.

28-4(c) Accessory Uses - The following shall be accessory uses in the MU-2 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through

facilities.

28-4(d) Conditional Uses - The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities as an adjunct to a permitted use.
2. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

28-4(e) Prohibited Uses - Shall be as for the MU-1 zone, except for drive-through facilities, which are permitted as a conditional use.

28-4(f) Lot, Yard and Height Requirements - shall be as follows:

- (1) Floor Area Ratio - Maximum 2.0.
- (2) Maximum Building Height - 55 feet.
- (3) Front Yard - No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way 50 feet or less in width; also see Section 28-4(h)(3) below.
- (4) Each Side Yard - For 1- and 2-story structures, 10 feet; for 3-story structures and higher, 10 feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
- (5) Rear Yard - 10 feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
- (6) Open Space - 10 percent.
- (7) Lot Coverage - Maximum 75 percent.

28-4(g) Parking Requirements - Off-street parking shall be required at the rate of three (3) spaces for every two dwelling units, or 0.9 spaces per bedroom (whichever is greater) for residential uses; zero (0) spaces per mixed-income housing unit; one (1) space per 300 square feet for other non-residential uses. Fifty percent (50%) of the parking provided for non-residential uses may be counted to satisfy residential parking requirements. Parking provided shall not exceed the minimum required number of spaces, plus 50% of the minimum.

28-4(h) Special Provisions:

- (1) No less than 15%, nor more than 85%, of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the 15% minimum mix of residential to non-residential uses has been achieved in multiple-use structures. Once the MU-2 project has reached 10,000 square feet of commercial use, additional commercial square footage will not be required.
- (2) For any MU-2 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least 75% of the non-residential floor area of the project. For any MU-2 project located on a site recommended for MD, HD or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density; and the maximum amount of commercial floor area shall be limited to a maximum of 50% instead of 85%, as listed in number 1 above.
- (3) Within the Infill & Redevelopment Area, at least 40% of the front building wall(s) shall be required to be built at the 0-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the 0-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the 0-foot setback; and for buildings facing on two streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the 0-foot setback line where it makes a finding that the strict application of the 0-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
- (4) When MU-2 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be

permitted to remain.

- (5) Signage within the MU-2 zone shall be as permitted and restricted under Article 17-7(o) of the Zoning Ordinance.

28-5 MIXED-USE 3: "MIXED-USE COMMUNITY ZONE" (MU-3) - Is hereby created and regulated as follows:

28-5(a) Location Criteria - MU-3 shall only be permitted on parcels that meet all of the following criteria:

- (1) The parcel must be located within the Urban Service Area and have at least 160 feet of frontage on one of the following streets: Bates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street/Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; South Upper Street; Vine Street; Bolivar Street; Red Mile Road; North Broadway; Man o' War Boulevard; Citation Boulevard or North Limestone Street.
- (2) The parcel must contain at least three (3) acres.
- (3) The parcel must be designated in a Medium, High or Very High Density Residential or Commercial land use category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial/Residential Mixed Use or Retail Trade/High Density land use category, the parcel does not have to meet the street frontage criteria listed in number 1 above.

28-5(b) Principal Permitted Uses - The following shall be principal permitted uses in the MU-3 zone:

1. Dwelling Units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited herein below.

28-5(c) Accessory Uses - The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Section 28-

5(e) below.

28-5(d) Conditional Uses - The conditional uses in the B-1 zone, except as prohibited under Section 28-5(e) below.

28-5(e) Prohibited Uses - The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: parking lots; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.
2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle - 28' maximum overall length), trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abuts a residential zone.
3. The following B-1 conditional uses: self-service car washes; animal hospitals or clinics; the rental of trucks (single rear axle - 28' maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.
4. All uses listed as prohibited in the B-1 zone, except as permitted herein.

28-5(f) Lot, Yard and Height Requirements - shall be as follows:

1. Floor Area Ratio - Maximum 2.0.
2. Maximum Building Height - 80 feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street; 70 feet for all other buildings.
3. Front Yard - No limitation for first or second story; any third and additional floors shall be set back at least 15 feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way 50 feet or less in width; see also Section 28-5(h)(3) below.
4. Each Side Yard - For 1- and 2-story structures, 10 feet; for 3-story structures and higher, 10 feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard - 10 feet unless adjacent to a residential zone; then a 1:1 height-to-yard

ratio.

6. Open Space - 15%.

7. Lot Coverage - Maximum 50%.

28-5(g) Parking Requirements - Off-street parking shall be required at the rate of three (3) spaces for every two dwellings, or 0.9 spaces per bedroom (whichever is greater) for residential uses; zero (0) parking spaces per mixed-income housing unit; one (1) space per 300 square feet for other non-residential uses. Fifty percent (50%) of the parking provided for non-residential uses may be counted to satisfy residential parking requirements. Parking provided shall not exceed the minimum required number of spaces, plus 50% of the minimum.

28-5(h) Special Provisions - shall be as follows:

- (1) No less than 15%, nor more than 85%, of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the 15% minimum mix of residential to non-residential uses has been achieved in multiple-use structures. Once the MU-3 project has reached 15,000 square feet of commercial use, additional commercial square footage will not be required.
- (2) For any MU-3 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least 75% of the non-residential floor area of the project. For any MU-3 project located on a site recommended for MD, HD or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density; and the maximum amount of commercial floor area shall be limited to a maximum of 50% instead of 85%, as listed in number 1 above.
- (3) Within the Infill & Redevelopment Area, at least 40% of the front building wall(s) shall be required to be built at the 0-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the 0-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the 0-foot setback; and for buildings facing on two streets, only the longest front building face

shall be subject to this requirement. However, the Planning Commission may increase the 0-foot setback line where it makes a finding that the strict application of the 0-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

- (4) When the MU-3 zoning is applied to a site where an existing structure is adapted for mixed use, and sufficient parking does not exist, the level of non-conformity may be permitted to remain.
- (5) Signage within the MU-3 zone shall be as permitted and restricted under Article 17-7(p) of the Zoning Ordinance.
- (6) An Entertainment Mixed-Use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a non-residential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:
 - (a) Subdivision of land in an Entertainment Mixed-Use Project is permitted, subject to the following regulations:
 1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
 2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
 - (b) At least 25% of the combined floor area of all buildings constructed within an Entertainment Mixed-Use Project

shall be located on the second or higher floor.

(c) Where multiple principal structures are proposed within an Entertainment Mixed-Use Project:

1. Mixing within a single structure shall not be required within the first 40% of floor area for commercial use, or after the 15% minimum mix of residential to non-residential uses has been achieved in multiple-use structures. Once the project has reached 15,000 square feet of commercial use, additional commercial square footage will not be required.
2. The front building wall of at least 15% of all buildings shall be required to be built at the 0-foot setback line.

(d) Buildings within an Entertainment Mixed-Use Project may be a maximum of 80' in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.

(e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed-Use Project:

1. As Principal Permitted uses:
 - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing and/or sale of malt beverages, wine or alcoholic beverages.
 - b. Motels, hotels and extended-stay hotels.
 - c. Indoor amusements, such as billiard or pool halls, skating rinks, theaters or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with

horse race tracks with allotted race meets, including simulcast facilities; accessory restaurants and/or the serving of alcoholic beverages, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.

2. As Accessory (clearly incidental and subordinate) uses:
 - a. Outdoor patios, when accessory to any permitted restaurant.
 - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
3. As Conditional uses:
 - a. Self-service car washes.
 - b. Gasoline pumps available to the public without an employee on site.
4. Off-Street Parking shall be provided for the uses listed below:

Cocktail Lounges, Night Clubs, Conference Facilities, Banquet Facilities, Convention Facilities or Restaurants with live entertainment or dancing - One (1) space for every one hundred fifty (150) square feet of floor area.

Drive-In Restaurants, with or without fixed seats - One (1) space for every three hundred (300) square feet of floor area; or one space for every four (4) fixed seats, whichever is greater.

Extended-Stay Hotels - One (1) space for every dwelling unit.

Grandstands for Horse Race Tracks - One (1) space per five (5) seats.

Hotels and Motels - One (1) space per guest suite.

Conditional Uses - The Board of Adjustment may establish additional requirements as needed.

28-6 PROVISIONS APPLICABLE TO ALL MIXED-USE ZONES - shall be as follows:

28-6(a) DEVELOPMENT PLAN REQUIRED -

All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed use zone shall require a finding that the development plan complies with the provisions of Sections 28-6(b) through (g) below.

28-6(b) PEDESTRIAN ACCOMMODATION - shall be as follows:

- (1) At least one primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two or more buildings are proposed, they shall be arranged in a manner that provides an open space area, such as a plaza, courtyard or similar feature.
- (4) Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas.
- (5) A 6-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.
- (6) For any development within the Downtown Streetscape Master Plan area, the development shall adhere to the provisions of that plan.

28-6(c) BUILDING FEATURES - shall be as follows:

- (1) For every primary wall plane, a change of at least five (5) feet in depth and eight (8)

feet in length shall be made for every 80 feet of length or fraction thereof.

- (2) For every side or rear wall plane, a change of at least eight (8) feet in length and five (5) feet in depth shall be made for every 100 feet in length.
- (3) The primary wall plane shall provide at least one of the following features at ground level:
 - a. A balcony at least 4' x 5'.
 - b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
 - c. A covered entrance at least 3' x 3'.
 - d. A porch at least 4' x 6', with a floor at least twelve (12) inches above grade.
- (4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

28-6(d) LOCATION AND ASSIGNMENT OF REQUIRED OFF-STREET PARKING - At least

fifty percent (50%) of parking spaces shall be located so as to not project between any front building face and any adjoining street, except an alley. The Planning Commission may require designation of certain spaces for use of residents only on the development plan.

28-6(e) ACCESSORY STRUCTURES - shall be regulated as follows:

- (1) The sides of any parking structure shall include one or more of the following features:
 - a. First floor retail or office uses.
 - b. Murals or public art on at least fifteen percent (15%) of the building face.
 - c. Display cases on at least ten percent (10%) of the building face.
 - d. Landscaping in an area of at least five (5) feet in width, with plantings as specified in Article 18 for edges of vehicular use areas.
- (2) Any garage doors shall meet one of the following criteria:
 - a. The garage door shall face perpendicular to or away from any adjoining street.
 - b. The garage door shall be offset at least four (4) feet behind the primary wall plane.

- c. If flush with the primary wall plane, the garage door shall not cover more than thirty percent (30%) of the surface area of the wall plane.

28-6(f) PARKING FOR BICYCLES - For projects with three or more dwelling units, four bicycle rack spaces shall be provided per every three units, with a maximum requirement of twelve (12) spaces.

28-6(g) SITE LIGHTING - shall be restricted as follows:

- (1) Wall mounted lamps that use the equivalent of 1,200 lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.
- (2) Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.
- (3) Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.
- (4) Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height, unless specifically used to light an outdoor recreation facility, such as a tennis court, ball field, or similar use.
- (5) Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, and shall be shielded or equipped with cutoffs so as to prevent undue light spill onto adjoining properties.

28-6(h) INCREASED SETBACK FOR BUILDING HEIGHT DIFFERENCES - In cases where the proposed mixed-use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, the Commission may require the establishment of a 1:1 height-to-yard ratio for side yards, additional screening, or other mitigating measures as deemed appropriate to address compatibility of mixed-use structures to the surrounding residential structures.

28-6(i) ON-STREET PARKING - The number of on-street parking spaces, calculated at one (1) space for every twenty-two (22) feet of curb length or the number of marked spaces, may reduce the number of off-street parking spaces required, as long as the

reduction otherwise complies with Article 16-10 of the Zoning Ordinance.

28-7 EFFECT OF HISTORIC ZONING - In the event any Mixed Use zone is created within an Historic (H-1) District, the Board of Architectural Review shall perform its normal duties in the approval of a Certificate of Appropriateness. This shall include approval of specific details designed to accommodate the requirements of Sections 28-6(b), 28-6(c), 28-6(e) and 28-6(g) above.

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